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DEC 15 2003

**BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA**

**NEBRASKA DEPARTMENT
OF INSURANCE**

STATE OF NEBRASKA)	CAUSE NO.: A-1519
DEPARTMENT OF INSURANCE,)	
)	
PETITIONER,)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
vs.)	RECOMMENDED ORDER AND
)	ORDER
GEOFFREY A. JENNINGS,)	
)	
RESPONDENT.)	

This matter came on for hearing on the 4th day of December, 2003, before Christine M. Neighbors, a hearing officer duly appointed by the Director of the Nebraska Department of Insurance. The Nebraska Department of Insurance ("Department") was represented by its attorney, Mike Boyd. Geoffrey A. Jennings, ("Respondent"), was not present and was not represented by counsel. The proceedings were tape recorded by Tracy Gruhn, a licensed Notary Public. Beverly Creager and Robin Szwaneck testified on behalf of the Department. Evidence was introduced and the matter taken under advisement. As a result of the hearing, the hearing officer makes the following Findings of Fact, Conclusions of Law, and Recommended Order.

FINDINGS OF FACT

1. Respondent was a nonresident licensed insurance producer at all times material hereto and whose registered address with the Department is 82 Lakewood Villa, Council Bluffs, IA 51501.
2. The Department is the agency of the State of Nebraska charged with licensing insurance producers and brokers.

3. The Petition and Notice of Hearing were filed on or about October 30, 2003, and were served upon the Respondent by mailing the same to his address of record by certified mail, return receipt requested, as evidenced by *Exhibit 1* and the return receipt card attached thereto.

4. On or about November 8, 1994, Respondent applied with the Department for a nonresident insurance agent license. On said application, Respondent answered "No" to Part III, C, "[h]ave you ever been convicted of, or pled nolo contendere (no contest), to any misdemeanor or felony or currently have pending misdemeanor or felony charges filed against you? (Exhibit 15). In 1975, Respondent was convicted of the crime of Robbery as defined in Section 711.1 and 711.3 of the 1973 Code of Iowa (see Ex. 17 for the Iowa definition of Robbery) and was sentenced up to ten years at the Men's Reformatory at Anamosa, Iowa, which sentence was then suspended with the Respondent placed on probation for a term of two years and ordered to pay restitution. (Ex. 16). Therefore, the hearing officer finds that Respondent lied on his application for an insurance agent license in 1994 when he answered "no" to question Part III, C, and did not provide details of his 1975 conviction. Further, based on the testimony of Beverly Creager, Licensing Administrator for the Department, the hearing officer finds that Respondent did not report this information to the Nebraska Department of Insurance at any time after he was granted a license.

5. On or about October 16, 2000, the Department, through Robin Szwaneck, an investigator in the Consumer Affairs Division, investigated a complaint received from Florence Parnell (Exs. 18, 19, 20) in which Respondent replaced, with a new annuity policy from National Western Life, an annuity that Ms. Parnell had held since 1993. The

annuity had a guaranteed interest rate of four percent and an interest payment on which Ms. Parnell lived. (Ex. 18). As a result of the replacement with the National Western Life annuity, Ms. Parnell incurred a significant surrender charge. (Ex. 21). The National Western Life annuity did not pay Ms. Parnell any income, the guaranteed interest rate dropped from four percent (4%) to that of 2.75%, and the annuity had a 17-year term before it annuitized. (Ex. 21, 22). With Ms. Parnell being 92 years old at the time of the replacement, she would have to live to age 109 for her annuity to mature. The hearing officer finds that Respondent did not act in the best interests of Ms. Parnell when he replaced her annuity with one that did not meet her needs. Therefore, Respondent did not demonstrate competency or trustworthiness to transact business in a manner to safeguard the public.

6. On or about August 12, 2002 and March 28, 2003, Respondent was arraigned in the District Court of Pottawattamie County, Iowa in case numbers SRCR 123527 and FECR 029550 respectively. (Ex. 9, p. 5; Ex. 14, p. 2). Beverly Creager testified that the Licensing Division was not notified by Respondent of the arraignments at any time. The hearing officer finds that Respondent did not comply with the requirement of §44-4065 (2) by notifying the Department of pending criminal charges within thirty days of arraignment or waiver of arraignment.

7. On or about September 7, 2001, Respondent was convicted of misdemeanor Disorderly Conduct and fined \$250.00. (Ex 3). On or about September 20, 2001, Respondent was convicted of misdemeanor Disorderly Conduct and fined \$50.00. (Ex. 4). On or about March 13, 2003, Respondent was found guilty and convicted by the court of misdemeanor Simple Assault and fined \$500.00 plus court costs. (Ex. 9). Based

upon the certified copies of court records, the hearing officer finds Respondent was convicted of three misdemeanor charges under Iowa law, which would be comparatively similar to Class III misdemeanors in Nebraska. (Exs. 5, 6, 7, 8, 10, 11).

8. On or about September 15, 2003, the Iowa Insurance Division issued an Order of Summary Suspension applicable to Respondent's resident insurance producer license in Iowa as evidenced by Exhibit 13. Beverly Creager testified that Respondent did not notify the Department of this action by Iowa. Therefore, the hearing officer finds that Respondent's insurance producer license was suspended in Iowa and he did not notify the Department of that administrative action within thirty days.

9. On or about September 20, 2003, the State of Nebraska Department of Banking & Finance filed Findings of Fact, Conclusions of Law and Order to Cease and Desist against Respondent for offering and selling units of public pay telephone equipment to Nebraska residents without said units being registered for sale as a security in Nebraska and without licensing as a broker-dealer or an agent of a broker-dealer in Nebraska. Beverly Creager testified that Respondent did not notify the Department of this action by the Department of Banking and Finance. Therefore, the hearing officer finds that Respondent failed to report to the Department, within thirty days, an administrative action taken by another governmental agency in this state.

10. On or about January 18, 1990, Respondent entered into a Consent Order in Cause No.: A-813 with the Department to pay a \$500.00 administrative fine for improperly withholding, misappropriating or converting monies received in the course of business, and not demonstrating trustworthiness and competency to transact the business

of insurance in such a manner as to safeguard the public by delaying delivery of a refund to a policyholder.

11. On or about November 21, 1990, Respondent again entered into a Consent Agreement with the Department in Cause No.: A-845 in which his insurance agent's license was suspended for six months commencing on November 30, 1990 with Respondent later placed on probation for six months commencing June 1, 1991. Respondent had again failed to refund excess premium to a policyholder for 1 1/2 years and failed to properly complete an application for insurance by disclosing all of the applicant's Medicare supplement policies in force at the time of the application resulting in a duplication of coverage.

12. On May 14, 1991, Respondent entered into a Consent Order with the Department in Cause No.: A-929 to voluntarily surrender his Nebraska nonresident insurance license because he was no longer qualified to hold the license. Applicant reapplied for licensure on November 8, 1994 which is the subject of Paragraph 4 above.

CONCLUSIONS OF LAW

1. The Department has jurisdiction and control over licensing of Respondent to sell insurance in the State of Nebraska pursuant to *Neb. Rev. Stat.* §44-101.01 and §44-4001 et seq. until September 1, 2001 when it was replaced with the Insurance Producers Licensing Act at *Neb. Rev. Stat.* §44-4047 et seq.

2. The Department has personal jurisdiction over Respondent.

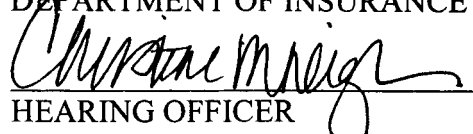
3. Respondent violated the following sections of Nebraska insurance law: *Neb. Rev. Stat.* §44-4028 (13) by failing to report on his application his 1975 conviction; *Neb. Rev. Stat.* §44-4028 (11) by failing to demonstrate trustworthiness and competency

in transacting business on behalf of Florence Parnell; *Neb. Rev. Stat.* §44-4059 (1)(b) as a result of failing to report, within thirty days of the date of arraignment or waiver, the criminal prosecution in cases SRCR 12357 and FECR 029550 as required by *Neb. Rev. Stat.* §44-4065 (2); §44-4059 (1)(f) for three misdemeanor convictions for Disorderly Conduct and Simple Assault on or about September 7, 2001, September 20, 2001, and March 13, 2003; *Neb. Rev. Stat.* §44-4059 (1)(i) for the suspension of his resident insurance producer's license by the Iowa Insurance Division; and *Neb. Rev. Stat.* §44-4059 (1)(b) for failing to notify the Department within 30 days of the suspension of his Iowa resident insurance producer license and the issuance by the Nebraska Department of Banking cease and desist, as required by *Neb. Rev. Stat.* §44-4065 (1).

RECOMMENDED ORDER

Based on the Findings of Fact and Conclusions of Law, it is recommended that Respondent nonresident insurance producer's license be immediately revoked.

Dated this 12th day of December, 2003.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE

HEARING OFFICER

CERTIFICATE OF ADOPTION

I have reviewed the Foregoing Findings of Fact, Conclusions of Law and Recommended Order and hereby certify that the Recommended Order is adopted as the official and final Order of the Department in the matter of the State of Nebraska Department of Insurance v. Geoffrey A. Jennings, Cause No.: A-1519.

Dated this _____ day of December, 2003.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



L. TIM WAGNER
Director of Insurance

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Findings of Fact, Conclusions of Law, Recommended Order and Order was served upon Respondent by mailing a copy to Respondent at 82 Lakewood Villa, Council Bluffs, IA 51501 on this 15th day of December, 2003, by certified mail, return receipt requested.

